

**SUMMARY REPORT OF INVESTIGATION****I. EXECUTIVE SUMMARY**

Date of Incident:	January 5, 2018
Time of Incident:	8:15 AM
Location of Incident:	Auto Body Shop, XXXX W. Lake Street, Chicago, IL
Date of COPA Notification:	January 5, 2018
Time of COPA Notification:	1:14 PM

On January 5, 2018, complainant Subject 1 (“Subject 1”) responded to a call for a tow of a vehicle involved in a hit and run accident at XXXX W. Lake Street. Subject 1 met the driver of the vehicle, Civilian 1, (“Civilian 1”), and towed his vehicle to Subject 1’s business, Auto Body Shop, located at XXXX W. Lake Street. This was done prior to the arrival of Officer A (“Officer A”), Star #XXXX, who had been dispatched to investigate the hit and run accident. Officer A arrested Subject 1 for Soliciting Business relating to the tow of Civilian 1’s vehicle. Subject 1 alleges the arrest was without legal justification. The Civilian Office of Police Accountability (“COPA”) reviewed the allegation and recommends that it be Unfounded.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer A, Star #XXXX, Employee ID #XXXXXX, DOA: XX/XX/XXXX, Rank: Police Officer, DOB: XX/XX/XXXX, Unit of Assignment: XX <sup>th</sup> District, Male, Hispanic
Subject #1:	Subject 1, DOB:XX/XX/XXXX, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer A	1. It is alleged that on or about January 5, 2018, at the location of XXXX W. Lake St., Chicago, IL, at approximately 8:30 AM, Officer A arrested complainant Subject 1 without legal justification, in violation of Rule 8.	Unfounded

**IV. APPLICABLE RULES AND LAWS**

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**Rules**

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1. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.

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**Federal Laws**

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1. Fourth Amendment, U.S. Constitution

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**State Laws**

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1. 725 ILCS 5/107-2(1)(c)

**1. INVESTIGATION****a. Interviews**

On January 8, 2018, complainant Subject 1, gave COPA an audio recorded statement. Subject 1 stated on January 5, 2018, between 7:00 AM and 7:15 AM, his son, identified as Civilian 2 (“Civilian 2”), called him saying someone called the office needing a tow. Subject 1 stated when he arrived at the location, he met a young man, identified as Civilian 1, who said “someone had hit him [his vehicle] and ran.” Subject 1 stated he told Civilian 1 that “I was called to help you.” Subject 1 stated Civilian 1 replied he needed assistance, that “he didn’t know what to do.” Subject 1 stated Civilian 1 said he needed his rental vehicle towed, but that he wanted to wait until his sister, identified as Civilian 3 (“Civilian 3”), arrived. Subject 1 stated Civilian 3 arrived approximately fifteen minutes later. Subject 1 stated he gave Civilian 1 and Civilian 3 his business card.

Subject 1 stated after Civilian 1 and Civilian 3 had a discussion amongst themselves, Civilian 3 asked Subject 1 to tow the vehicle to his place of business and the rental car company would pick it up from there. Subject 1 stated he and Civilian 1 got into his tow vehicle and he wrote up the tow sheet. Subject 1 stated Civilian 1 asked if he was going to be charged for the tow. Subject 1 stated he told Civilian 1 that he would not be charged for the tow. Subject 1 stated Civilian 1 said he wanted to be sure that he would not be charged for the tow, and that he would let Subject 1 tow the vehicle as long as the rental car company was paying the cost.

Subject 1 stated again that Civilian 1 said he didn’t want to pay for the tow. Subject 1 stated he again told Civilian 1 the rental car company would pay the tow. Subject 1 stated Civilian 1 did not sign the tow slip, because he did not want to pay for the tow. Later in the interview, when asked for clarification as to whether Civilian 1 did or did not sign the tow slip, Subject 1 stated Civilian 1 “started to sign” but did not finish.

Subject 1 stated he towed and locked up Civilian 1’s vehicle at his business, located at XXXX W. Lake St. Subject 1 stated after he left his business, he received a call from Civilian 3. Subject 1 stated Civilian 3 said CPD had arrived at the accident location to do the accident

report. Subject 1 stated Civilian 3 told him that Civilian 1 called 911 for CPD and “had waited a long time” for their arrival. Subject 1 stated Civilian 3 made several calls to him, but that it took him a while to get back to his place of business. Subject 1 stated Civilian 3 informed him that CPD was also at the location, and that an officer, identified as Officer A (“Officer A”), had also called and spoke with Subject 1’s wife and Civilian 2. Subject 1 stated by the time he arrived back at his business, Officer A told him “you know, you’re under arrest.”

Subject 1 stated he asked Officer A why he was under arrest. Subject 1 stated he told Officer A, “I’m not soliciting.” Subject 1 stated he told Officer A, “I was called to help these people.” Subject 1 stated Officer A pushed him, knocking his phone out of his hand, and handcuffed him. Subject 1 stated he said to Officer A, “Why is it all the time you are harassing me?” Subject 1 stated Officer A stated that Subject 1, “was no good, your business is a rip-off, you’re robbing these people.” Subject 1 stated he told Officer A that he didn’t know Civilian 1 or Civilian 3, that Civilian 1 was from out-of-town, and had asked for his help. Subject 1 stated Officer A told him he was going to jail. Subject 1 stated he told Officer A “he hadn’t done anything.” Subject 1 stated Civilian 3 said to Officer A, “This man [Subject 1] came to help us. Why are you locking him up?”

Subject 1 stated Officer A placed him in the CPD marked vehicle. Subject 1 stated Officer A opened the rear door of the CPD vehicle and snatched his phone earpiece from him. Subject 1 stated that Officer A made several comments telling him to “shut up.” Subject 1 said Officer A did not let him secure his tow truck nor his business prior to his arrest. Subject 1 stated unknown persons went into his business and tow truck because of Officer A’s refusal to allow him to secure the premises. Subject 1 stated Officer A did not complete an accident report at the tow yard. Subject 1 stated Officer A came to look at the vehicle. Subject 1 stated Officer A completed the accident report at the XXth District. Subject 1 stated Officer A refused to loosen the handcuffs after he said they “were too tight.” Subject 1 stated Officer A refused to allow him to use the bathroom at the XXth District, resulting in him “using the bathroom on myself.” Subject 1 stated Officer A handcuffed him to the wall for nearly three hours. Subject 1 stated an unknown sergeant at the XXth District told him it was against the law to solicit business. Subject 1 stated he replied he was at home and that his son called him saying, “some of his [Subject 1] customers called him [Civilian 2] saying someone needed a tow.” Subject 1 stated the unknown Sergeant told Officer A twice to fingerprint Subject 1 and release him. Subject 1 stated if he was soliciting, Officer A “wasn’t there to see me soliciting.”<sup>1</sup>

On Tuesday, March 27, 2018, accused Officer A (“Officer A”), Star #XXXX, gave COPA an audio recorded statement. Officer A stated that on January 25, 2018, he was working Beat XX-XX, a traffic car, in the XXth District. Officer A stated he was a one-man unit, in full uniform, driving a marked CPD vehicle. Officer A stated he was wearing a Body-Worn Camera (“BWC”) that date but realized later that it was not operational. Officer A stated as the traffic

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<sup>1</sup> Attachment 14

car, he responded to vehicular accidents and enforced traffic and parking violations within the District. Officer A stated on January 25, 2018, between 7:45 AM and 8:30 AM, he responded to an auto accident at the intersection of Street 1 and Street 2.

Officer A stated he went over the radio to ask dispatch if they could contact the party involved in the accident. Officer A stated shortly thereafter a female and young man, identified as Civilian 1 drove up and said they were involved in an accident. Officer A stated Civilian 1 said a gentleman, identified as Civilian 2, ("Civilian 2"), the son of complainant Subject 1, stopped at the accident scene and help Civilian 1 "push his vehicle out of the way." Officer A stated Civilian 1 said Civilian 2 asked if he had contacted the police and if he needed a tow. Officer A stated Civilian 1 said he "didn't know" if he needed a tow. Officer A stated Civilian 1 said Civilian 2 left the accident scene and called Subject 1 saying, "There's a car that can't drive, he needs a tow." Officer A stated Civilian 1 told him that Subject 1 arrived at the accident scene and towed his vehicle.

Officer A stated he asked Civilian 1 if he gave Subject 1 permission to tow the vehicle. Officer A stated Civilian 1 said, "not really." Officer A stated he asked Civilian 1 if Subject 1 gave him a form to sign stating he could tow the vehicle. Officer A stated Civilian 1 said he received a form to sign giving Subject 1 permission to tow the vehicle, but that he [Civilian 1] refused to sign it because "he didn't feel comfortable."<sup>2</sup> Officer A stated he asked Civilian 1 where Subject 1 took his vehicle. Officer A stated Civilian 1 said he thought Subject 1 took it to the tow yard at XXXX W. Lake Street. Officer A stated he had Civilian 1 call Subject 1 to meet at XXXX W. Lake Street.

Officer A stated when Subject 1 arrived at the location, he told him that it was unlawful for him to remove a vehicle from the scene of an accident prior to the police arriving. Officer A stated Subject 1 said Civilian 1 gave him permission. Officer A stated he told Subject 1 that Civilian 1 told him that he did not give his permission. Officer A stated Civilian 1 then said to Subject 1, "I didn't ask you to tow my car." Officer A stated he placed Subject 1 under arrest for unlawfully removing a vehicle from the scene of an accident prior to the arrival of the police, and conveyed him to the XXth District. Officer A stated at the District, he charged Subject 1 with the offense of Soliciting Business.<sup>3</sup> Officer A stated Civilian 2, the complainant Subject 1's son, was also at XXXX W. Lake St. Officer A stated he had Civilian 2 place Civilian 1's vehicle on the street so he could contact the rental car company to tow the vehicle.

Upon being asked if he had previous interactions with Subject 1, Officer A stated that he had prior contact with Subject 1 at a different accident scene where he failed to follow towing procedures. Officer A stated he told Subject 1 he was violating the law. Officer A stated Subject

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<sup>2</sup> Attachment 13

<sup>3</sup> Attachment 16

1 said to him, "Okay officer, give me a break and I won't do it again." Officer A stated he agreed to give Subject 1 a break at that time.<sup>4</sup>

On March 12, 2018, COPA spoke via telephone with witness Civilian 1 regarding his vehicle being towed by complainant Subject 1. Civilian 1 stated he was assisted by Civilian 2, son of complainant Subject 1, in pushing his rental vehicle to the side of the road. Civilian 1 stated that Civilian 2 asked him if he needed a tow truck, and Civilian 1 equivocated when asked by COPA whether he agreed to the tow. Civilian 1 stated Civilian 2 made a call and Subject 1 arrived with his tow truck. Civilian 1 stated Subject 1 towed his vehicle, but that he did not sign the tow slip because he did not know the cost of the tow and there were no prices on the tow slip letting him know what the tow would cost.<sup>5</sup>

#### **b. Documentary Evidence**

The **CPD Arrest Report, CB# XXXXXXXX**, for Subject 1 states on January 5, 2018, at XXXX W. Lake St., at approximately 8:30 AM, Officer A, learned from victim Civilian 1 that Subject 1 solicited business. The report states Subject 1 unlawfully offered his services to the victim of a hit and run accident after receiving a call from his son Civilian 2, who witnessed an auto accident. The report states Civilian 2 assisted Civilian 1 in removing the car from the intersection. It further states that Civilian 2 then called Subject 1 to let him know there was a car to tow at Street 1 and Street 2. The report states Civilian 1 was waiting for the police and was unfamiliar with the process and Subject 1 towed Civilian 1's car to his tow yard without notifying the police or getting permission from Civilian 1. Civilian 1 would not sign the tow report and Subject 1 towed the vehicle anyway. Subject 1 did not tell Civilian 1 how much the tow cost or if Civilian 1 could tow the car elsewhere.<sup>6</sup>

#### **2. ANALYSIS**

The City of Chicago Municipal Code 10-8-510, Soliciting Business, states

It shall be unlawful for any person including the owner of any business adjacent to or near the public way, either in person or through any agent or employee to stand upon, use or occupy the public ways to solicit the trade, custom or patronage for such business, or to interfere with or impede any pedestrian or any one in a vehicle on a public way, for purpose of soliciting business.<sup>7</sup>

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<sup>4</sup> Attachment 16

<sup>5</sup> Attachment 18

<sup>6</sup> Attachment 8

<sup>7</sup> Attachment 16

In his COPA interview, Subject 1 makes statements that conflict with Civilian 1's COPA statement regarding how he was notified by Civilian 2 of Civilian 1's need for a tow.<sup>8</sup> Subject 1 stated Civilian 2, his son, called him saying an unknown person called the office requesting a tow. However, Civilian 1 said to COPA that Civilian 2 was at the accident scene, assisted Civilian 1 in moving his damaged vehicle to the side of the road, and contacted Subject 1 who arrived with his tow truck. In addition, Subject 1 contradicted himself regarding Civilian 1 signing the tow slip and giving Subject 1 permission to tow Civilian 1's vehicle. Taken together, the statements regarding how Subject 1 was notified to tow Civilian 1's vehicle and whether Civilian 1 in fact did sign the tow slip giving Subject 1 permission to tow his vehicle, impact the veracity of Subject 1's interview to COPA.

Subject 1 claims he was arrested by Officer A without legal justification. However, Illinois state law stipulates "that a police officer may arrest a person when he has reasonable grounds to believe that the person is committing or has committed an offense."<sup>9</sup> In this instance Officer A had reasonable grounds, based upon information provided by Civilian 1 as to Civilian 2 calling Subject 1 to the accident scene to tow Civilian 1's vehicle. Additionally, The U.S. Supreme Court held that the Fourth Amendment does not forbid a warrantless arrest for a minor criminal offense if an officer has probable cause to believe that an individual has committed that offense.<sup>10</sup> Subject 1's statement that he indeed had towed Civilian 1's vehicle from the accident scene, coupled with the totality of the circumstances, gave Officer A probable cause to arrest Subject 1 for violating City of Chicago Municipal Code 10-8-510, Soliciting of Business.

### 3. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	1. It is alleged that on or about January 5, 2018, at the location of XXXX W. Lake St., Chicago, IL, at approximately 8:30 AM, Officer A arrested complainant Subject 1 without legal justification, in violation of Rule 8.	Unfounded

Approved:

<sup>8</sup> Civilian 2's action in calling Subject 1 constitutes him acting as an agent for Subject 1 in soliciting business, a violation of City of Chicago Municipal Code 10-8-510. According to Barron's Dictionary of Legal Terms, an agent is defined as, "one who is authorized by another person to act in that person's behalf."

<sup>9</sup> 725 (ILCS) 5/107-2(1)(c)

<sup>10</sup> *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 Ct. 1536, (2001)

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*Acting Deputy Chief Administrator A*

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Date

**Appendix A**

## Assigned Investigative Staff

<b>Squad#:</b>	10
<b>Investigator:</b>	Investigator A
<b>Supervising Investigator:</b>	Supervising Investigator A
<b>Acting Deputy Chief Administrator:</b>	Acting Deputy Chief Administrator A